

## Appendix A

Municipality of Chatham-Kent

Integrity Commissioner

Report following Investigation of Complaints Respecting Social Media Posts and  
Conduct of Councillor Jubenville

Submitted: July 17, 2023

The *Municipal Act, 2001* establishes the Integrity Commissioner as an independent statutory officer and prescribes the roles, responsibilities and authority of the office. One of those duties is to report to Council on investigations conducted in response to complaints received.

During the period April to June, 2023 I have received many complaints about social media posts and related behaviour of Councillor Rhonda Jubenville. I have reviewed each of them in accordance with the process provided in the Council Code of Conduct. Many of the posts complained of were related to social media posts made by Councillor Jubenville that I determined upon reading were not a breach of the Chatham-Kent Council Code of Conduct. Section 18(d) of the Code of Conduct confirms that where I determine that the referral of a matter to me is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an investigation, the Integrity Commissioner shall not conduct an investigation. I have only investigated the matters that I determined had sufficient grounds to justify doing so.

Where matters raised concerns that needed further investigation I took steps to do so, including interviews with the Councillor and complainant(s), and independent research. The procedure set out in Section 18(d) of the Code of Conduct authorizes me to attempt to resolve complains received and I attempted to do so at first instance. Councillor Jubenville was very open to discussing these matters with me, and agreed to remove some of the posts, while objecting to removing others that she did not feel were improper. I have had many discussions and exchanges with Councillor Jubenville about what can and what should not be posted on social media by a member of council, and about her responsibilities under the Code of Conduct.

The nature of certain complaints and the response of the Councillor however, require me to complete a formal investigation and report to Council. Councillor Jubenville was advised of this on May 24, 2023 and has been provided copies of the social media posts that are part of this investigation. Councillor Jubenville's response was provided by her counsel on June 26, 2023 and a copy is attached (Attachment 1).

Also of note, on May 18, 2023 I provided a comprehensive memorandum to all Members of Council respecting the use of social media by councillors (Attachment 2). The purpose of providing this memorandum was to follow up on complaints received about posts made by more than one member of council in a way that would be less divisive of Council and would try to provide a needed knowledge base of what is and is not acceptable, in a way that would not further damage the relationships between members of council.

### **Council Code of Conduct Provisions Related to Complaints discussed in this report**

I have assessed the matters described by complainants as relating to alleged breaches of the following provisions:

#### ***Key principle statement:***

- ***Members of Council should be committed to performing their functions with integrity and to avoid the improper use of the influence of their office, and conflicts of interest, both apparent and real***

### **5. General Principles**

*The general principles in this section shall be used to govern interpretation of the more specific rules and obligations outlined in this Code of Conduct. These general principles shall also be used to determine issues not specifically addressed in this Code of Conduct.*

*The general principles are:*

*a) Members of Council shall uphold a high standard of ethical behaviour to ensure that their decision making is impartial, transparent and free from undue influence.*

*b) Members shall refrain from engaging in conduct that would bring the Municipality or Council into disrepute or compromise the integrity of the Municipality or Council*

### **10. Improper Use of Influence**

*No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.*

*Examples of prohibited conduct are the use of a member's position as a member of Council or local board or committee to improperly influence the decision of another person to the private advantage of the member, or the member's parents, children or spouse, friends, or associates, business or otherwise. This would include attempts to secure preferential treatment beyond activities in which members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of future advantage through a member's supposed influence within Council in return for present actions or inaction.*

### **15. Discreditable Conduct**

*All members of Council have a duty to treat members of the public, one another, and staff appropriately and without abuse, bullying or intimidation, and to ensure that their work environment is free from discrimination and harassment. The Ontario Human Rights Code applies, in addition to other federal and provincial laws. [my bolding]*

Some complaints received also referenced Council procedural matters. These are not matters that are within my jurisdiction and I have advised the complainants as such, suggesting they be raised with the Clerk or CAO.

The Code of Conduct requires that the Integrity Commissioner to report the results of the investigation within ninety days and requires the Clerk to include the report on the Council agenda in an open meeting of Council. The first complaint related to this investigation was received on April 19, 2023 and the last complaint was received on May 19, 2023. My investigation was completed on June 26, 2023.

## **Background Related to Complaints**

The determination of which organizations could fly their flags on municipal property in Chatham-Kent became a hot topic of debate when the request of the group Life in Motion, described as the educational arm of Right to Life Kent, was denied its request to raise a flag. Discussion followed about other groups including Pride, Igbtqia2s+ and Black Lives Matter flag raising in Chatham-Kent followed. I will address these matters further in my analysis.

Following the denial of a flag raising request by a particular group, Councillor Jubenville brought a motion to Council on April 24, 2023 asking that only government of Canada, Ontario and Chatham-Kent flags be allowed to be raised on municipal property. After significant debate and a proposed amendment, the motion was voted on and defeated, in a 5-12 vote. A motion by Councillor Crew that the Municipality develop a policy about flag raising was subsequently passed by a vote of 14-3. A draft policy is to be presented to Council in September.

On April 13, 2023 before Councillor Jubenville's motion was debated at Council, an article by CVT News Windsor appeared as follows:

*A Chatham-Kent councillor is bringing forth a motion that would restrict what flags are flown outside the civic centre – limiting the three flag poles to only national, provincial and municipal flags.*

*Rhonda Jubenville, who represents Ward 4, says it's about fairness.*

*"We should be raising all flags or raise no flags," the councillor tells CTV News.*

*She says she was inspired to issue her notice of motion after a request from Life in Motion, a local anti-abortion group, to have their flag flown went unanswered.*

*"If you're going to do it for one, you have to do it for all," says Jubenville.*

*Currently in Chatham-Kent, it's entirely up to the mayor which flags do and don't get hoisted outside the civic centre.*

*Flags celebrating pride, Black Lives Matter, the Terry Fox Run and more have gone up the pole – but Jubenville questions why that same opportunity was not granted to Life in Motion.*

*“We have 104,000 people in the municipality and I guarantee you not every resident aligns with every flag,” she says.*

*“But if we’re going to fly these flags, we have to have an even playing field for everybody.”*

.....

*CK Pride, who have played a role in hoisting the rainbow coloured flag in Chatham since 2000, worry the motion is “short-sighted.”*

*“It’s an all or nothing motion,” says the group’s president, Marianne Willson.*

*Willson poses what the community needs is a more robust flag policy. One that spells out what does and does not get flown, but prevents the disruption of traditional flag raisings.*

*“I can’t even begin to imagine how much I would hurt not to see the veteran’s poppy flag up on Remembrance Day,” Willson says.*

*She says Life in Motion’s request, which Jubenville says was submitted on March 17 and had not been answered as of Wednesday afternoon, deserved a response.*

*“They’re certainly entitled to their response,” says Willson.*

*“If we had a flag raising policy that was clear and was able to be applied to all flag requests across the board — that would be best.”*

In my discussions with Councillor Jubenville on April 22, 2023 she raised that messages had been sent to her by email and telephone that wished her death, but as I was advised did not threaten violence against her. I have asked for copies of any such messages and although I have not received them however, I do believe Councillor Jubenville in this regard. She has repeated this message in the media as well.

When I spoke to Councillor Jubenville prior to the Council meeting on April 24, 2023 we discussed a number of concerns that had been brought to my attention. Matters posted on Councillor Jubenville’s social media concerning flag raising and referencing a local drag show and comments about pedophilia and pedophiles at drag shows made by Councillor Jubenville were discussed. I do not have a post

respecting comments about pedophilia, but Councillor Jubenville discussed what she had posted with me.

Councillor Jubenville told me that she has found a link on another person's website that tied these together and specifically told me that a psychologist was speaking about the "normalization of pedophilia" and while the video may not have anything to do with Chatham-Kent, she felt that there was a local mental health reason for posting it and adding her comments. She also advised that in her opinion any complaint was taking her post out of context. She did not agree to remove it.

Attachment 3 is a post by Councillor Jubenville referencing a CBC article titled "Ontario township votes to exclude Pride flags on municipal property" in which she adds her comments: *I wish CK Council felt the same. I know from the support, prayers, emails, messages and phone calls, Chatham-Kent wanted to only fly government flags. Good for Norwich! Makes sense to me.*

Attachment 4 is a post by Councillor Jubenville that says: *Just an FYI to all families in the LKDSB, in the elementary schools. Tomorrow is a PA Day for teachers. A workshop will be facilitated to prepare for Drag Queen Story Time coming to the elementary schools.*

This post attracted many comments against this school board event, as the post submitted indicates.

A complaint concerning identifying members of council who disagreed with her by their initials was raised and Councillor Jubenville agreed to remove this immediately and has advised that she did. In response to this being raised however, Councillor Jubenville made several comments to me concerning actions by another member of council to speak to other councillors to persuade them not to support her flag raising motion. She said that councillors were being told she was anti-black and anti-LGBTQ and felt I should be taking action to stop this. I have invited Councillor Jubenville to make a formal complaint about this, but to date have not received one. Councillor Jubenville told me that she has never made anti-LGBTQ statements and that she has both friends and relatives in the community; that her concern was the fact that another group was refused the opportunity to fly its flag.

We also discussed the flag raising motion and the upcoming Council meeting that has been the subject of much discussion in the community and several social media posts. In her comments during the discussion at Council, Councillor Jubenville states that I told her many municipalities had policies that limited flags to those of the three levels of government. What she did not say is that I also told her many municipalities have dealt with this issue and put policies in place, some limiting flags and some providing assessment criteria. It is an appropriate issue for Council to debate.

The following comments in regards to these matters are from the Chatham Voice article referenced above provide helpful context:

*Discussion at the council meeting ranged far and wide, swinging from Gay Pride to the rights of the unborn, the “good deeds” of Right to Life, a seven year old’s plea for inclusivity, several amendments and the need of respect for all.*

*Jubenville told council she has been subjected to a spate of hateful messages since bringing the flag issue forward, including two wishes for her death and someone casting a witches’ spell upon her.*

*“I am perplexed by those who advocate for their own flag and inclusion do so with little regard for other groups,” Jubenville said.*

*“I have been called words that I had to look up the meaning of,” Jubenville added, noting the attacks came at her all because of her wish to fly only three flags at municipal centres.*

*She said the hateful messages “sadly” come from groups who preach inclusivity and from some who were present in council chambers.*

*“Why would I now, as a councillor, feel compelled to support these groups who wished me death and hate over a flag?” Jubenville asked. “This should concern all of council.”*

*But she said that while she had received “disheartening” messages, she had also received a “plethora of support” from thousands across C-K.*

*“To my fellow councillors, I hope you realize there are more constituents in favour of this motion than against it,” Jubenville claimed.*

*For the public record, Jubenville said she wanted to stress she was not “anti-Black.*

*“I am not racist and I am not anti LGBTQ+,” she said. “I know and love many people in all of these communities.”*

*She said the flag decision shouldn’t be decided by administration or arbitrarily by the mayor’s office.*

Several other media articles have since been written about this matter, as have television news, radio talk show and other less formal reports. What is concerning is that many of these media reports, like many social media posts, are accompanied by comments or photographs of previous Price flag-raising ceremonies. Clearly the motion and the Pride flag-raising have become tied together by the media and in the public’s eyes, given the complaints referred to me and social media posts. The reasons for this become more clear through Councillor Jubenville’s social media posts, discussed below.

The Council meeting where Councillor Jubenville’s motion respecting flag raising was debated took place on April 24, 2023.

Item 21(b) – Motion by Councillor Jubenville – Flags at Chatham-Kent Municipal Centres reads as follows:

Re: Flags at Chatham-Kent Municipal Centres “Whereas there are three flagpoles in front of the Chatham-Kent Civic Centre at 315 King St. West, that regularly fly the Canadian National Flag, the Ontario Provincial Flag and the Chatham-Kent Municipal Flag; And whereas there are flagpoles in front of other Chatham Kent Municipal service center buildings across Chatham Kent; And whereas in some circumstance other flags, representing different organizations, groups, or movements have flown under the direction of the Chatham Kent Mayor’s office; And whereas some organizations, groups or movements have not been afforded the opportunity to also have their representing flag flown. Therefore, be it resolved that Council direct Administration to avoid controversy and discrimination while encouraging inclusion of all Chatham-Kent residents under



the Federal, Provincial and Municipal flags, by stating the only flags that shall be flown at the Chatham-Kent Civic Centre and all Municipal service centers across Chatham-Kent, will be the Canadian National Flag, the Ontario Provincial Flag and the Chatham Kent Municipal Flag.”

In speaking to the motion, Councillor Jubenville made several comments about discrimination against one special interest group and the need for Council to determine what flags fly on municipal property as a reason for bringing the motion. Councillors spoke to the volume of community input received from the community.

When the flag raising motion was before Council, Councillors Crew and Brock McGregor were among those on Council who commented that hate messages are unacceptable and unforgiveable.

While this discussion was ongoing, Councillor Jubenville, posted several comments on FaceBook that were the subject of complaints brought to my attention in the days that followed.

On April 25, 2023 in the Chatham Daily News and copied in the London Free Press, comments made at Council the previous evening by Councillor Jubenville is reported as saying:

*“I’ve been called words that I had to look up,” she said, adding there were two death threats “and a witches’ spell cast on me all because I feel our three governmental flags are what is needed outside municipal centres.”*

*She added: “Why would I now, as a councillor, feel compelled to support some of these groups that wish me death and hate over a flag? This should concern all of council.”*

Attachment 5 is a post by Councillor Jubenville made following the vote in Council and thanking her supporters, naming the councillors who supported her, and telling her audience to listen to CBC radio for an interview.

Attachment 6 is another post following the vote on the flag raising motion whereby Councillor Jubenville is asking her supporters to take action against a community group: *Can a taxpayer in CK please ask them to stop targeting me and*

*my Motion that already failed. It's over, please move on. The is their second "healing" event about my failed Motion and..*

On May 2, 2023 I received a new complaint. Several other posts by Councillor Jubenville followed. Attachment 7 was posted as follows: *FYI...For the trauma I caused them. [angry face emoji]. The irony is the stress I was caused by vile words and threats from members and supporters of this group over a Motion that had nothing to do with them specifically. The fact that some Councillors supported this event makes it even worse. How sad!*

Councillor Jubenville also posted Attachment 8, where she says: *Just an FYI to all residents who live in Blenheim and surrounding area. At this moment there is a second flag [Pride flag] flying under our Canadian Flag [Canadian Flag emoji]. This is not accepted practice. If you feel empassioned about this please respectfully let Blenheim High School know your feelings. It doesn't matter which flag it is, it's wrong. All respect is being cast aside to feed a narrative.*

*Fyi, from the Canadian Government site below...*

Councillor Jubenville then pastes an excerpt from the rules that apply to Government of Canada Buildings and flying flags. When I spoke to Councillor Jubenville about posting misleading information and creating a public impression that the federal government position applies to school board property, she advised that she posted what a constituent sent her and did not remove or correct the information.

These are some of the posts that were brought to my attention and that were reviewed with Councillor Jubenville and provided to her counsel for response. My report will focus on these.

## **The Complainants**

The complainants provided copies of the posts identified above and raise concerns about Councillor Jubenville's comments respecting the subject matter content of the posts, as well as regarding statements made about identifiable individuals. The complainants allege that comments made by Councillor Jubenville on social media and in Council that span topics including:

- The raising of flags at municipal buildings, and the Municipality's decision not to raise the flag
- The raising of the Pride flag
- The raising of the Pride flag on the same pole and under the Canadian flag
- A local high school black students' graduation program
- Actions of other councillors
- Going outside her ward to generate support for her ideas
- Councillors intimidated to raise a point of order concerning comments made by Councillor Jubenville that they believe to be factually inaccurate because of Councillor Jubenville's "more active" supporters sitting behind them in the Council chamber making inappropriate comments and heckling
- The conduct of Councillor Jubenville's supporters in Council was meant to intimidate individual deputants as well as councillors from speaking on the flag issue
- Councillors concerned about reprisals from Councillor Jubenville's online followers
- Inappropriate comments and being spit on in the Council chambers by supporters of Councillor Jubenville

Some of the specific comments contained in those complaints are:

- "Serving in her role as Councillor, Jubenville has actively campaigned against members of our community, specifically the LGBTQ+ community, and youth at Blenheim District High School."
- "As a result of Jubenville's most recent actions in Blenheim, my family received hateful emails and social media messages ALL naming Jubenville."
- "She is creating a toxic work environment, one where we cannot bring our full selves to work nor engage in the work at hand – we are entitled to a workplace free from discrimination and harassment, to be treated with respect and dignity, and should be able to contribute fully and have equal opportunities in our workplace. She is contravening our Respectful Workplace Policy."
- "She is attempting to influence the actions of individual members of staff"
- "She has called out and criticized her fellow Councillors in public, again. She has also targeted the 2SLGBTQIA community in a public forum, again. There

are also at least 39 comments at the time of this screenshot.” The post placed by Councillor Jubenville on May 2<sup>nd</sup> that caused this complaint contains the following: “ The irony is the stress I was caused by these vile words and threats from members and supporters of this group over a Motion that had noting to do with them specifically. The fact that some Councillors supported this event makes it even worse. How sad!”

- “I am concerned that this is going to lead to a reprisal against me by her and/or her online followers, since that is what happened to me ... earlier in our term.”
- “my mental health is suffering worrying about what she is going to do next.”
- “I have rethought my complaint against Rhonda. I would like to withdraw it. Honestly, I’m so afraid of what her and her followers will do and say against me ... if she’s removed from council or reprimanded because of me ... I would fear for my personal safety.”

One post that I will not attach because of the individuals named throughout, but will quote from Councillor Jubenville: *A woman by the name of xxx is speaking out falsely against me. She is slanderous and spreading untruths. Be careful if you know her as the words she speaks are from darkness.* The responses from supporters of Councillor Jubenville are very critical of the individual, supportive of the Councillor and include the following: *We all know you aren’t against any people, but may just not understand some. I know you are kind and accepting to all. (Unless they go in the wrong gender change room with..”*

### **Interested supporters of Councillor Jubenville**

Efforts were made to discuss these matters with Councillor Jubenville and to avoid the need for a formal investigation and report however, it was soon determined that an informal resolution would not be possible. Once Councillor Jubenville was advised that a formal investigation and report would be carried out, a number of residents supporting Councillor Jubenville contacted me by email and by phone.

The authority of the Integrity Commissioner to conduct an investigation is independent of the Municipality and the only person made aware that an

investigation was to be carried out was Councillor Jubenville, and yet word spread quickly. I do not know what members of the public were told by Councillor Jubenville, whether directly or through those she entrusted the information concerning my decision to conduct an investigation with, but between May 24<sup>th</sup> to June 5<sup>th</sup> eighteen individuals sent emails in support of Councillor Jubenville, and another six called me. Their remarks included these and similar comments:

- Councillor Jubenville is kind, honest and compassionate
- The Charter protects all, even unpopular speech
- “those who truly serve unselfishly on council, suddenly find themselves without any constitutional right to freedom of speech, thought or belief as specified in Section 2 of the Charter of Rights and Freedoms. You can no longer have a opposing vote or opinion on gay pride flags or anything to do with gay issues without incurring threats of death and or bodily harm.”
- “I stand behind Rhonda 100%, she stands for truth and what is right!”
- Chatham-Kent can’t pick and choose which flags to fly
- There are better ways to spend our tax dollars than proceeding with this “witch hunt” to “seek revenge”
- “That person who is making all these complaints and attacking Rhonda is a local tyrant!”
- “Anytime Rhonda has a different view on something, some of council members (and some select CK residents) lose their minds and start whining.”
- “I am getting so very sick and tired of other council members making it their mission to hurt and “take down” Rhonda!”
- “Your (Integrity Commissioner) harassment of Councillor Jubenville is disgusting and contemptable”
- “Rhonda's posts simply inform the community of things that are happening. She has not said anything hateful or discriminatory towards anyone, even if she has a different opinion. She has remained very professional throughout all of her posts.”
- “she represents a significant number of individuals in Chatham-Kent who share her Conservative, Christian, and Libertarian values, and ideologies. “
- “it is YOUR JOB (Integrity Commissioner) AS A GOVERNMENT OFFICIAL to support every CANADIAN EQUALLY”

- “You (Integrity Commissioner) are accusing her of “inciting violence” and “inciting threatening behavior”, going so far as to assume that Ms. Jubenville is “ against the pride flag” because of her Flag Motion that Municipal properties fly CANADIAN FLAGS only.”
- “I would not make a decision to remove who the constituents have voted in and have total faith in making the decisions that need to be made. We have given her our approval to be our voice.”
- “I believe she is just doing her job bringing light to certain situations.”
- “Individuals are making unfair and hurtful accusations against her without knowing the whole story.”
- “You have lost your professional ability to perform in this position.”
- “The real violence will be incited if this investigation results in her being disciplined or "shut down" by this finding and her fellow councillors. “
- “Uttering threats of death and or bodily harm have no place in the municipality of Chatham Kent against any member of council at any time and must be investigated as a criminal matter.”

### **Findings Respecting Councillor Jubenville and her use of social media**

I have had several discussions with Councillor Jubenville concerning her use of social media. Councillor Jubenville sees herself as the voice of a part of the population of Chatham-Kent that hold beliefs similar to hers, and sees her role as voicing these concerns whether or not they relate to matters that involve the Municipality and her role as a public official. On January 9, 2023 in respect of social media posting in general, I advised Councillor Jubenville as follows:

*...I confirm my advice to you that it is not a breach of the Code of Conduct to post a photo of the Council vote or to comment on what is happening in Council. I confirm my advice to you that any comments posted with a screenshot of the vote must be considered carefully and could in fact breach the Code of Conduct. Once Council has made a decision, all members of council are expected to support it. It is possible to say you did not vote in the majority, but anything beyond that, such as explaining a different position than what Council adopted, is quite likely to breach of the Code of Conduct.*

*You have advised that you have separate personal and Councillor social media accounts, which is a good practice. It is also important to remember though, that what you post on your personal pages can become the subject of a complaint to the Integrity Commissioner. Any material posted or 'liked' must be viewed through the lens of "is this appropriate given the Code of Conduct?"*

In respect of comments made that challenge whether other councillors are fulfilling their role, Councillor Jubenville, when Rule 15 was read to her, agreed to remove comments but has never in our discussions recognized that these comments were wrong in any way.

There are very strong differences of opinion between Members of Council on certain controversial issues that have come before them, including vaccine policy and more recently flag raising. While vaccine policy was not the subject of my complaint, it was raised often enough by those supporting Councillor Jubenville and those raising concerns about her conduct, that it must be mentioned. Councillor Jubenville has a strong following on social media that support her positions on the matters she posts and likely other councillors that use social media do as well. In conversations with her, Councillor Jubenville has referenced the number of followers she has on more than one occasion. I must also take note of a number of posts that are critical of Councillor Jubenville. This report responds to complaints raised regarding Councillor Jubenville so does not assess what others posts comment on.

This report includes many comments from complainants and from supporters of Councillor Jubenville, in addition to the materials and posts of Councillor Jubenville at issue, some of which were made during the course of my investigation and are set out above.

Those who felt targeted by Councillor Jubenville's comments spoke of a sense of fear and intimidation they clearly felt, as well as anger. Many other comments not included were deliberately left out because of a concern that they would identify the individuals who came forward through this investigation.

Comments directed at the Integrity Commissioner during this investigation have been included because these more than anything illustrate the strong beliefs held

by some of the Councillor's supporters. The factual basis of many of these is questionable.

Councillor Jubenville has confirmed to me more than once and confirmed in media that she was not threatened with violence as some supporters suggest and comments critical of my investigation show a clear lack of understanding of what my role is and of the purpose of my investigation. These comments are all illustrative of the power of social media.

There is no singular definition of a social media influencer. The Oxford Dictionary of Social Media defines a social influencer as: *A key individual with an extensive network of contacts, who plays an active role in shaping the opinions of others within some topic area, typically through their expertise, popularity, or reputation.* Cyber Definitions defines a social media influencer as: *A Social Media Influencer is a popular social media personality who is capable of influencing their followers.*

In my discussions with Councillor Jubenville she has noted the number of followers she has on social media, at least twice. I believe that Councillor Jubenville was aware of the power she wields through her use of social media, and the influence she has on her supporters. The media comments and attachments to this report are examples that demonstrate this, especially when Councillor Jubenville exercises her voice to call others to action. The public response that immediately followed me advising only Councillor Jubenville and nobody else that I would be conducting a formal investigation demonstrate this.

### **Freedom of Speech and Elected Officials**

Councillor Jubenville has agreed to remove certain posts from her social media, but in the matters that are described above, she has not, resulting in this investigation.

Counsel for Councillor Jubenville relies heavily on the provision of the Charter of Rights and Freedoms to defend the Councillor's right to express her opinions on social media or otherwise. He expresses concern that my report will violate Councillor Jubenville's right to Freedom of Expression protected by the Charter.



While I respect the role of the Charter or Rights and Freedoms, like any other legislation, the Charter is subject to interpretation by the courts. I look to the principles stated by the Supreme Court of Canada in a defamation case called Prud'homme v. Prud'homme, 2002 SCC 85 (CanLII), [2002] 4 SCR 663:

***Elected municipal officials are the leading players in municipal democracy. They are chosen by the residents to look after the community's interests; they take on a variety of responsibilities, some of which are provided by law and others of which are inherent in the nature of their position. (para.16)***

*...freedom of expression takes on singular importance, because of the intimate connection between the role of that official and the preservation of municipal democracy. Elected municipal officials are, in a way, conduits for the voices of their constituents: they convey their grievances in municipal government (para.42)*

***...That freedom of speech is not absolute. It is limited by... the requirements imposed by other people's right to the protection of their reputation...,reputation is an attribute of personality that any democratic society concerned about respect for the individual must protect[.] (para.43)***

*Although it is not specifically mentioned in the Canadian Charter, the good reputation of the individual represents and reflects the innate dignity of the individual, a concept which underlies all the Canadian Charter rights. (para.44)*

*...the duties of office of municipal councillors require that they take public positions and make efforts to explain and persuade with respect to the numerous problems that arise in a municipality and in the running of it. The councillor's freedom of expression is a crucial instrument for achieving effective participation in and transparent management of municipal affairs. Decisions that sometimes have a negative effect on individuals or on important interests not only must be made, but must also be justified to the public. **Freedom of speech, when exercised in a manner that respects other persons but exercised freely, is an essential instrument for the proper performance of the duties of the office of an elected municipal official. (para.53)***

*[my bolding]*

As Integrity Commissioner it is my responsibility to assess the matters brought to my attention that are within my authority to review, impartially and fairly. It is

also my duty to apply the Council Code of Conduct to my consideration of the complaints brought to my attention. The Code guides members of council in avoiding conflicts between their private interests and beliefs and the public commitment they have made to act in the best interests of the Municipality of Chatham-Kent.

Earlier in this report I discuss the complaints received, the responses submitted by Councillor Jubenville and her counsel, the process followed to investigate these complaints and my comments on the legal analysis provided by Councillor Jubenville's legal counsel.

In carrying out my investigation, I interviewed several individuals and received a large number of emails. While not addressed in counsel's submission, concerns were raised in my investigation related to what the outcome of my investigation would be.

My authority is set out in section 223.1 of the *Municipal Act, 2001* and is limited to providing specific recommendations to Council. The decision in *Dhillon v. Brampton*, 2021 ONSC 4165 (Div. Ct.) acknowledged the bar set in *Di Biase v. Vaughan*, 2016 ONSC 5620 (Div. Ct.) addresses this best: "*The statutory scheme prioritizes confidentiality; the integrity commissioner's process is investigatory and she may only make recommendations; the maximum penalty if Council accepts recommendations is 90 days suspension of pay; and no councillor may lose his elected position or suffer civil or criminal liability on the basis of an integrity commissioner's report.*"

The Code of Conduct allows me to keep confidential names and facts where it is in the interest of a just and fair result to do so. Counsel for Councillor Jubenville has asked that I identify all complainants. Given the potential for reprisal to the complainants I am exercising this authority and will not identify complainants. After a great deal of consideration, I have resisted doing so largely because Councillor Jubenville has targeted one individual by name in social media posts and in her counsel's response to this investigation. I can assert that this individual is not the complainant that provided the documentation that led to this investigation and this reference is totally inappropriate, and in itself is a breach of Rule 15 of the Council Code of Conduct.

## **Conclusion:**

Council's role is to set the policy direction and vision for the Municipality of Chatham-Kent, and when a member of council does not agree with that direction, that member is expected to accept it. Each member of council was duly elected to be one member of a decision-making body, Council, and while it is expected that individual members of council will have different views on matters that come before council, and will have different community ties that may influence their decisions at council, it is only acting together that council makes decisions.

As Justice Cunningham said in report of the Mississauga Judicial Inquiry titled *Updating the Ethical Infrastructure* "[o]ptics are important. It is essential to consider how a reasonable person would view the actions of the municipal councillor. Justice Cunningham refers to Commissioner Oliphant's comments in his 2010 report, and states that:

"public office holders ultimately owe their position to the public, whose business they are conducting. Ensuring they do not prefer their private interests or a small group of private interests, at the expense of their public duties. This is a fundamental objective of ethics standards"

The following statement in the response prepared by Councillor Jubenville's legal counsel is concerning for other reasons:

*Further, the fact that Ms. Jubenville may have singled out other council members for criticism cannot serve as the basis for shutting down her right to freedom of expression. Council members are public officials, and, as such, are subject to scrutiny and accountability by everyone. If they are too sensitive to participate in the hurly burly of public life, they should step down and find low-profile jobs where they can live and work in privacy.*

There is nothing in legislation, including the Charter and the Council Code of Conduct that provides freedom for a public official to make public comments that disrespect the voice of others or that intimidate or bully others. I do not accept counsel's position as set out above.

In regard to the alleged breach of section 10 of the Council Code of Conduct, counsel for Councillor Jubenville submits that the purpose of section 10 of the Council Code of Conduct is to prevent council members from using their public

positions to seek private advantages or secure them for others. I cannot support this restrictive position. Section 10 states as follows: *No member of Council shall use the influence of her or his office for any purpose other than for the exercise of her or his official duties.* Counsel's interpretation focuses narrowly and appears to be based on the examples provided of such behaviour in the Code.

I read this section more broadly, reading the Code as a whole document and relying on section 5 and the general principles previously cited. I interpret using the influence of office to include using the position as a public official improperly to voice comments about community matters, including comments made about school board matters, other councillors and also about social issues in the community. The role of a public official is not a mantle to be put on during a council meeting and otherwise set aside when engaged in the community. It is a mantle of public duty that is worn in everything a member of council does, including what a member chooses to post on social media.

I find that Councillor Jubenville used the influence of her office to promote causes that were important to her and in doing so failed to uphold the high standard of ethical behaviour of a public official that all members of council are required to uphold under the Council Code of Conduct.

In regard to the alleged breach of section 15 of the Council Code of Conduct, Councillor Jubenville's counsel takes the position that there is no evidence of her attempting to abuse or bully and that she was the victim of such abuse and bullying. Again, Councillor Jubenville was invited to provide evidence of where she has been bullied, abused or intimidated and no such evidence has been presented to me. I have noted that, in carrying out my independent research, there are negative comments posted about Councillor Jubenville, some of which are disturbing. No such comments have been made by members of council and therefore they are outside of my jurisdiction.

Counsel references person having threatened Councillor Jubenville's physical security however, Councillor Jubenville has not supported this statement in her conversations with me. If this is the case, I trust counsel will pursue it with the police.

I find that Councillor Jubenville has in fact breached this provision and has abused, bullied and intimidated members of Council and the individual

complainants. I find that this is especially troubling when in responding, counsel is critical of members of Council who were singled out. Most concerning however, is that counsel specifically references in his reply, an individual citizen who is not a member of council and has provided no reason for doing so. This leads me to conclude that Councillor Jubenville continues to bully and harass this individual.

It is Council's job, in discharging its responsibilities, to serve the public interest and when a member of council chooses to post comments on social media that are critical of other members of Council or that intimidate and bully others, that member is in breach of the ethical framework set out in the Council Code of Conduct.

In conclusion, I find that Councillor Jubenville breached sections 10 and 15 of the Council Code of Conduct by engaging in behaviour that unduly used her influence as a public official and did so to be intimidating and use bully tactics to silence her critics.

### **Recommendations:**

That Councillor Jubenville's remuneration be suspended for a period of three months. By virtue of being an elected official Councillor Jubenville has significant influence in the community. She took an oath of office to exercise the office faithfully and impartially, that she was elected to, the best of her knowledge and ability. Councillor Jubenville has an obligation to uphold the ethical values contained in the Council Code of Conduct.

Going forward, Councillor Jubenville is not prohibited from using her social media presence to express her views and opinions, as long as she does so in a manner that is responsible and upholds the values set out in the Council Code of Conduct.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'MEB', is positioned below the text 'Respectfully submitted,'.

Mary Ellen Bench

Municipality of Chatham-Kent

Integrity Commissioner

# Attachment 1

## LITIGATIONWORKS

June 26, 2023

Ms. Mary Ellen Bench  
Chatham-Kent Integrity Commissioner

VIA e-mail: maryellen@benchmunicipal.com

### **Re: Pending Report Concerning Chatham-Kent Councillor Rhonda Jubenville**

Dear Ms. Bench,

I have had an opportunity to read your correspondence with Ms. Jubenville regarding the allegation that she has violated the *Municipality of Chatham-Kent Code of Conduct for Council Members*.

Provisionally, I am very concerned that the pending report will violate Ms. Jubenville's right to freedom of expression guaranteed under the *Charter of Rights and Freedoms*. This is foreshadowed by your statement to Ms. Jubenville, dated April 19, 2023:

The greatest concern is in how these comments are perceived in the community. The complaint states that while they may be free speech, they breach section 10 of the code of conduct - "No member shall use the influence of his or her office for any purpose other than for the exercise of his or her official duties."

The train goes off the tracks right here. Section 52(1) of the *Constitution Act* states that the constitution is the Supreme Law of Canada and any law inconsistent with it is of no force and effect. Your foregoing statement implies that the constitution, which includes the *Charter of Rights and Freedoms*, is subservient to the *Code of Conduct*. In fact, the *Code of Conduct*, which is merely a municipal by-law or regulation, is subservient to the *Charter*, and, in particular, the guarantee of freedom of expression. Thus, it would appear that your pending report will be based on an incorrect premise.

Moreover, the cited comment is also concerning in that it suggests that an elected member of a democratic body should not be taking positions on matters of public importance. In fact, that is the very function of an elected official in a democracy. And that is all that the Councillor has

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done. If you are planning to propose that Ms. Jubenville should be subject to a penalty for doing her job as an elected official, you would be penalizing democracy itself.

The Supreme Court has held that government may prohibit freedom of expression when it threatens to cause immediate physical harm (do not yell "Fire!" in a crowded theatre); it can also be prohibited if it falls into the category of hate speech or child pornography. Needless to say, expression can also be prohibited when it manifests as death threats and threats of assault, which are rightly proscribed under the *Criminal Code*. And, while government can place reasonable limits on freedom of expression under section 1 of the *Charter*, it cannot defeat the right, which is what happens when it attempts to stifle minority opinions since the very purpose of the guarantee is to protect such opinions. Expression cannot be limited because some people find it controversial, offensive or inflammatory. And yet, this would appear to be the rationale for investigating Ms. Jubenville and exposing her to a reprimand or penalty. In passing, I note that it is by no means clear that Ms. Jubenville's opinions are in the minority; however, whether they are in the minority or the majority, they are protected under the *Charter*.

Contextually, I would suggest that the use of section 10 of the *Code* is inappropriate. Clearly, the example of undue influence in the section itself indicates that its purpose is to prevent council members from using their public positions to seek private advantages or secure them for others. This is a far cry from the situation where a Council member is legitimately expressing her political views. It can hardly be said that she is seeking a profit of some kind simply because her protected speech may be persuasive to others.

In relation to your comment concerning section 15 of the *Code*, again, I would suggest that this is an inappropriate application of the provision. There is no evidence in the record, such as it is, to suggest that Ms. Jubenville is attempting to abuse, bully or intimidate anyone. In fact, she is the one who is being abused, bullied and intimidated because she has expressed views with which some people disagree. Moreover, it cannot be said that Ms. Jubenville has acted in an uncivilized way because she expressed a point of view on flag raising or Covid-19 vaccines. In fact, properly understood, the expression of such views is the very definition of civilization in a free and democratic society, which depends in public and private matters on the free marketplace of ideas for its vitality and success.

Further, the fact that Ms. Jubenville may have singled out other council members for criticism cannot serve as the basis for shutting down her right to freedom of expression. Council members are public officials, and, as such, are subject to scrutiny and accountability by everyone. If they are too sensitive to participate in the hurly burly of public life, they should step down and find low-profile jobs where they can live and work in privacy.

As for Ms. Jubenville's views around ceremonial flags, her position can hardly be characterized as extreme. In fact, it is the quintessence of rationality since it is based on the principle of equality. Her view is that every organized group should have a right to raise a flag on a flag pole on public property, or no one should - anything else violates the principles of equality and



inclusion since it presumes that some people should enjoy public recognition, and for arbitrary reasons, others should not. That Ms. Jubenville has been excoriated for bringing a thoroughly rational position to the debate around this issue suggests that the problem is with her vociferous critics, not with Ms. Jubenville herself or anyone who supports her. In fact, the people who have threatened her physical security should be investigated by the police for obvious reasons.

As for Ms. Jubenville's views about Pride Month or vaccines, these too are fully protected. Many people believe that public education should be neutral on issues relating to sexuality, and that schools should limit themselves to teaching reading, writing, and arithmetic. That does not mean that Ms. Jubenville believes in discrimination against anyone with a different sexual orientation or that she is fomenting hatred against any individual or group. She is simply of the view that issues around sexuality and morality as they affect children should be reserved to parents. That cannot be characterized as an extreme position.

In relation to section c. (v) of the *Code*, the confidentiality provision, we request that you disclose the complainants in this matter since the provision clearly applies to whistleblowers and people who might suffer reprisals. As one Councillor among 17, Ms. Jubenville is not in a position to exact a reprisal on anyone, nor has she manifested any intention of doing so. The reprisals are being exacted on her. By cloaking the complainants in secrecy, you are aiding and abetting those who do not have the courage to participate in public debate themselves and resent those who do. In this regard, I raise the issue of whether this provision would survive challenges based on the principles of notice and *audi alteram partem* under the doctrine of Fairness, section 2 (b) of the *Charter*, and the common law relating to defamation.

One further note in this context goes to the text message you disclosed, which begins: "...me. I will not sit back and let any group be ostracized or discriminated against...." This is a non-attributed screen shot of a private message exchange between Ms. Jubenville and [REDACTED] [REDACTED] who clearly provided this to your office. This exchange must be seen in context and, for that purpose, Ms. Jubenville has provided screen shots of the entire exchange (attached). I have also attached [REDACTED] original e-mail exchange with College Council members so that the text exchange can be properly situated. In passing, I note that the lack of attribution to the screen shot in your communications suggests that [REDACTED] may be one of the complainants.

Ms. Jubenville's overall position is that the *Code of Conduct* could be used to unlawfully institute state censorship in Chatham-Kent. This would be a violation of the *Charter* and a betrayal of our democratic way of life, and it would enable the true enemies of freedom - the complainants and their supporters - to take control of public discourse. I would urge you to consider the case law under section 2(b) of the *Charter*, and in particular, the Supreme Court's pronouncements in *Saumur v. Quebec (City)*, [1953] 2 S.C.R. 299 and *R. v. Zundel*, [1992] 2 S.C.R. 731 before moving in this direction.

Yours truly,

A handwritten signature in black ink, appearing to read 'MSA', followed by a long horizontal line extending to the right.

Michael Alexander

cc: Rhonda Jubenville

## Attachment 2

Educational Memorandum from the Chatham-Kent Integrity Commissioner  
Respecting Use of Social Media by Members of Council and Complaints Received

And

Respecting Councillor Conduct generally

Submitted: May 15, 2023

Over the past month I have received several phone calls and emails raising concerns about the conduct of members of council when posting to social media platforms. I have responded to these matters as they have been brought to my attention with the individuals involved. Given that the behaviour leading to these complaints continue and fresh complaints are being received, I believe it is my responsibility to provide my concerns with the behaviour that is causing strife to all of Council.

The Chatham-Kent Council Code of Conduct does not contain specific provisions related to the use of social media by members of council. Instead, Chatham-Kent has adopted Social Media Guidelines for Elected Officials. These Guidelines are intended to guide councillors in the use of social media to ensure that the corporate principles embodied in the Code of Conduct are upheld.

The complaints I have received relate to a number of matters that councillors have commented on, sometimes in Council and sometimes in social media or in other forums, summarized under the following topics:

- Covid vaccinations (raised last fall and renewed recently)
- Flag Raising
- Pro Life
- Racism
- Intimidation
- LGBTQIA+
- Council procedures
- Municipal grants
- Comments naming members of council
- Social media blocking
- Comments respecting school and health matters
- Comments respecting community associations or groups

I do not intend to discuss the advice I have provided on any of these matters. They are important to note because they have resulted in a number of complaints made to me that can be characterized as behaviour that is:

- Disrespectful towards other members of council
- Disrespectful use of social media
- Disruptive behaviour at Council and concerns respecting upholding the Council procedure by-law

The purpose of this report is to review some basic principles and expectations that flow for the Code of Conduct using examples I have taken from other jurisdictions to make my points.

### **Freedom of Expression**

The Canadian *Charter of Rights and Freedoms* guarantees certain fundamental rights, subject to reasonable limits. In other words, the rights and freedoms in the Charter are not absolute; they can be limited to protect other rights or important national and local values.

Freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication is protected by section 2 of the *Charter*. Freedom of expression is limited by federal laws such as the Criminal Code that protects against hate propaganda, child pornography for example and by provincial laws including defamation. At the municipal level, freedom of expression is regulated by by-laws such as those regulating signage, flag raising or use of municipal property to name a few. The conduct of municipal employees is regulated by internal policies and every municipality must have a policy respecting Council-staff relationships. Additionally as required by section 231.2 of the *Municipal Act, 2001* every municipality must have a councillor code of conduct.

### **Council Code of Conduct**

A council code of conduct is intended to be a living document that reflects the values of the members of council at any given time. It is expected to be reviewed and updated where deemed appropriate. It is one of my roles, as an independent integrity commissioner, to interpret the Code of Conduct for Members of Council and apply its provisions to the conduct of members of council. I can recommend to Council that a member of council be sanctioned for behaviour that I find breaches the Code but I cannot sanction a member of council. The Act is clear that a contravention of the Code is not an offence.

### **Pressures impacting responsible conduct**

Municipal councils are most effective when all members of council work together with each other and with staff to carry out their governance responsibilities. The Code of Conduct however, it is intended to set certain principles that councillors are expected to follow, in both their public and private life. While the Code is not intended to be used to silence those with unpopular views, it is intended to ensure that all members act responsibly in the views they share publicly.

Elected officials, by virtue of their office, are held to a higher standard in the community and have more sway over public opinion. Chatham-Kent, like many other municipalities, saw a number of new councillors elected in 2022. New councillors and new staff both bring new ideas and approaches to a municipality and are critical to ensuring fresh ideas and approaches are brought forward. This is one reason why the Association of Municipalities of Ontario (AMO) is occasionally asked to consider the issue of term limits. Sometimes when this happens however, the new ideas and approaches can create strife

as unwritten expectations are not known and not followed. This lack of a shared understanding can be further exacerbated by the use of technology and social media.

Statements that may not be based on verified facts in this age where technology is evolving at a rapid speed, allows comments made in social media or on more traditional platforms, to go viral at rapid speed. Once a statement is published on the internet it cannot be erased. Disrespectful comments and disruptive behaviour impacts Council's effectiveness as it creates an environment where it is challenging for Council to function effectively or to carry out its mandate. In turn, this makes it difficult to keep good councillors and also good staff as it undermines the foundations of good governance and creates instability in the community.

Social media platforms are valuable communications tools. In fact, there is a growing public expectation that members of council will communicate with their community using social media platforms. Councillors do not communicate official messages from the municipality but may copy and post to reinforce these and ensure a broader audience sees these messages.

At the same time, a small post that may seem unrelated to a matter before Council can escalate into a much larger issue that can in turn cause significant disruption.

For all of these reasons and more, it is critical that Council act from a place where all members of council share an understanding and commitment to responsible conduct based on the rules Council has determined apply, as set out in the Code of Conduct.

I draw your attention to a paper entitled "*Responsible Conduct of Local Government Elected Officials*" published in March 2017 by the Working Group on Responsible Conduct, a joint initiative of the Union of BC Municipalities; the Local Government Management Association and the Province. A number of the matters that I wish to bring to your attention are discussed in greater detail in this paper.

[https://lgla.ca/wp-content/uploads/2017/05/ResponsibleConductLocalGovtElectedOfficials\\_Consultation\\_Paper\\_March302017.pdf](https://lgla.ca/wp-content/uploads/2017/05/ResponsibleConductLocalGovtElectedOfficials_Consultation_Paper_March302017.pdf)

This is one of several papers on this issue that have been written in the past few years, as the use of social media by elected officials has become a topic of debate across the country and around the world. The following is from that paper:

*The world we live in has often been described as a "Post truth era" where appeals to emotion and personal beliefs have taken centre-stage over objective facts. "This approach may lead to greater public interest and attention; however, a significant impact of operating in a 'post-truth' environment is that it can be more difficult for groups of people to find common ground and to agree on the facts that are necessary to make effective decisions for communities."* We see this in the media every day. It can even be said that many do not believe objective fact-based information can be validated in today's world where Fox and CNN provide very different perspectives on events occurring around the world.

The following Integrity Commissioner comments on the use of social media and related action in the Council Chamber are helpful examples of what Integrity Commissioners in Canada have written about this matter:

### **City of Edmonton investigation around the interaction of freedom of expression and social media posts.**

*The publishing on social media of misleading information by a Member of Council about bike lanes can come across as potentially minor and even trivial. However, the introduction of bike lanes is an issue of public interest and debate in Edmonton, as confirmed by the Respondent who says it is of concern for many of his constituents. In my view, it is acceptable for the Respondent to strongly express his views and carry out his duties to his constituents, **but his communications must be based on accurate and not misleading information about the decisions of Council. Misleading information quickly becomes fact for anyone who has seen it, the impact of which is not easily reversed or undone. It is particularly concerning when it is on social media, given the power and impact of that medium.***

**Comment:** Care must be taken not to publish misleading information, being information that is either inaccurate or incomplete, and could lead an individual reading it to reach a wrong conclusion.

### **City of Brampton investigation into social media posts about a land acquisition matter**

*Many of Councillor Fortini's comments were expressions of opinion. As such, they are not statements that an Integrity Commissioner can determine to be true or false. They are the Councillor's opinions. That is all. Brampton is a democracy. The minority always has the right to dissent from majority decisions. Rule No. 10(1) cannot be interpreted as removing the right to dissent.*

*What Rule No. 10(1) requires is that the majority decision be accurately communicated. **This does not prevent criticism of a decision. It merely requires that the criticism depict the decision accurately.** I find that this occurred. A Council Member is always entitled to explain why he or she voted a particular way. This is not a privilege conferred by the Code; it is a basic democratic right.*

**Comment:** Comments made on social media must be accurately communicated. Section 5(b) of the Chatham-Kent Code of Conduct is clear that in explaining why a member did not vote with the majority, any comments made by a member that do not support the Council decision must be factual and not malign the integrity of Council or of the Council decision.

### **Port Hope investigation into Councillor posts in response to citizen and her resignation from FaceBook group**

*Allegations that a resident had been mistreated by a Councillor who disagreed with her on matters related to tax write-offs and the municipal budget. The Complaints allege that as a result of the exchange between the Resident and the Councillor and the Councillor's subsequent resignation as the Admin of the Facebook Group, other members of the Facebook Group "turned against" the Resident. This is alleged to have included racists and misogynistic comments, comments about the Resident's character, and generally negative comments. The Complaints also allege that the Councillor directed or incited individuals to take these actions against the Resident. The Complainants demanded a formal apology from the Councillor.....*

*Notwithstanding this, **the Councillor's actions demonstrate that at all times, she was cognizant that one cannot easily distinguish between her personal capacity and her capacity as an elected representative of the Municipality.** In fact, her motivating reason behind resigning from her role as Admin of the Facebook Group was that she should not be seen to be moderating political discussion that is potentially critical of or adverse to the Municipality. In this regard, the Councillor was well aware of the optics of the situation in fulfilment of her ethical obligations. .... In all respects, the Councillor acted responsibly with respect to her actions related to the Facebook Group and associated social media posts.*

**Comment:** It is very difficult to distinguish, as a member of council, comments made in social media as a member of council from those made in a private capacity. Comments related to matters within Council's jurisdiction will always be seen through the councillor lens and must comply with the Code of Conduct. The problem is, the public doesn't know the difference between comments made as a private individual and comments made as a public official. To distinguish comments that are made in a private capacity it is recommended that a **disclaimer** be included in any such post that makes it clear the comments represent personal opinions about matters outside of the responsibilities of a councillor.

#### **City of St. Catharines investigation into statements made about the vaccination status of councillors**

*On the basis of the evidence before us, we find that the Councillor did not contravene any of the general obligations under Section 4.0. There was no evidence in our investigation that demonstrates the Councillor acted in bad faith, or with ill-intent, in creating the Post. There is no evidence to suggest that the Councillor was motivated by any animus, dislike, or ill will against the Candidate. **We accept the Councillor's explanation that the Post was motivated by her personal view that candidates' positions on the efficacy of vaccines was and remains an important election issues, and also by a desire to advise voters that all candidates agreed on this basic point and had in fact received vaccines. .... We also wish to address the potential argument that the Councillor made a misleading statement by omission by excluding the Candidate from the Post, which would lend to the inference that the Candidate was not vaccinated and/or did not support vaccines. We disagree with this interpretation of the facts and the Post. The Post did not use any exclusionary language whatsoever suggesting that only those candidates included in the Post had been vaccinated.***

**Comment:** This type of post could be considered fair comment, or it elicit a breach of section 5 (General Principles) or section 15 (discreditable conduct) to the Chatham-Kent Code. This decision is an example of the care that must be taken when posting such comments.

#### **City of Calgary and councillor tweets about a fellow member of council**

*A Councillor tweeted in response to a tweet, "I have regret from the first month of this term & that regret is that **I failed to clearly call out my colleagues for signing their names on a notice of motion next to (withheld).** **We are all stuck with him.** But actively politicking with him is not cool." **The tweet he liked and then replied to said: "...Reminder: siding with a child molester makes you #NotFitToServe".***

***The nature of the first tweet was, in my opinion, offensive and harmful towards the complainants. It suggested support for one of the most egregious forms of criminal behavior a person could commit in our***

society, child molestation. It also suggested these elected officials were not fit to serve. Councillor Carra's response to it, which was likewise negative towards the complainants, was at the very least, disrespectful.

***I find on the balance of probabilities, that the tweet was posted because Councillor Carra disagreed with the complainants' for signing a Notice of Motion before Council. His tweet and the first part of his apology confirmed this. The Complainants reported, and I find on the balance of probabilities, that this was intimidating behavior towards the complainants, in their role as Council Members, especially the newcomers on Council. They were and continue to be concerned that future disagreements with Councillor Carra may result in more derogatory statements being made about them. They stated they felt that this was a way for Councillor Carra to bully them into agreeing with him in the future.***

***I accept, on the balance of probabilities, given that the four complainants assert it, and I have seen the twitter threads in particular, that there is a continuing pattern of inappropriate statements, including on Twitter, by Councillor Carra about his colleagues on Council, whose views are not in alignment with his own. In the eyes of reasonable, informed Calgarians, this behavior has the potential to undermine confidence in City governance.***

**Comment:** Councillors cannot make, like or otherwise use statements on social media to bully others on council into agreeing with their position in the future. In addition to actual comments, a like on social media illustrates alignment with the views of a particular person or group and can breach the Code of Conduct. An apology will not end the matter, especially if the messaging continues. This behaviour would constitute a breach of section 15 (Discreditable conduct) of the Chatham-Kent Code of Conduct.

### **City of Toronto and Councillor tweets criticizing staff**

***Even if he was opposing Ms. Cook's appointment on a principled basis, the vehicle he used to convey his political opposition and the label he assigned Ms. Cook subjected her to trial by social media.***

***Councillor Matlow is adept at using social media and what followed was entirely foreseeable. .... A member of Council who Tweets critically about a specific City employee subjects that employee to attack in a forum in which they cannot respond. Councillor Matlow's Tweet incited public attack on Ms. Cook, which is contrary to HRAP. (Toronto's Human Rights and Antiharassment/Discrimination Policy)***

***Councillor Matlow was called to order in committee on March 3, 2023 for pursuing an irrelevant and inappropriate line of questioning. While he defended his approach as necessary to counter the power of the Mayor's Office and the alleged politicization of the City's transit expansion staff, he has failed to adhere to the principle that members of Council should not treat public servants as political adversaries.***

**Comment:** Staff are professionals who cannot defend themselves against social media posts by members of council. Staff are not political and criticizing staff in social media posts is never acceptable behaviour under the Code of Conduct. This activity breaches sections 5(Principles of General Application), 14 (Conduct Respecting Staff) and 15 (Discreditable Conduct) of the Chatham-Kent Code of Conduct.



## **City of Thunder Bay investigation into Councillor comments concerning a truck driving through a homeless encampment**

***Elected officials, often motivated by the desire to keep their constituents informed, may post about issues and events in real time as they are unfolding. Elected officials, however, occupy a privileged position within our democratic system which imposes accountability for their words publicly pronounced or published.***

***For these reasons, elected officials bear an increased responsibility to ensure the matters they are posting about do not inadvertently spread false rumours or misinformation. .... we find that the Respondent's activity on social media – posting unsubstantiated speculation relating to a matter under police investigation constitutes inappropriate conduct contrary to the standards expected of members of Council as reflected under the Code of Conduct.....***

*Open social media is a place where opinions and ideas are freely shared, contentious matters are addressed, and where people come together just to come together. In its best light, social media represents a democratization of communications between citizens and their elected officials. Regrettably social media is not always a platform for healthy discussion. At times it attracts unconstructive negativism, and even hate.*

*The potential for unconstructive and even offensive communication over social media has resulted in the development of certain tools through which participants can control their accounts. One of the tools available on social media is the ability to 'block' another registered platform user from interacting with the user. ..the responsibilities of a Member when participating in open social media are acknowledged to be evolving and we recognize that the Code of Conduct provides insufficient guidance in respect of such issues.*

***Though we make no finding that the Respondent inappropriately blocked the journalist on the occasion identified, his acknowledgment that he occasionally blocks persons from his own account guides us to recommend below that Council should develop a policy framework for how Members of Council engage on open social media accounts for the purpose of communicating on City business, including Twitter and Facebook.***

**Comment:** Information posted on social media must be accurate. Elected officials have an obligation under the Code of Conduct to uphold high standards of integrity (section 5).

## **City of Peterborough investigation into Mayor's comments against Randy Hillier and Hon. Mr. Bernier**

The Mayor essentially stated that Mr. Hillier and the Hon. Mr. Bernier, as well as organizers and potential attendees, were clowns who don't give a f##k about people's well-being. The Mayor said people who criticized her Tweets were selfish dullards. The Mayor told Mr. Hillier, the Hon. Mr. Bernier, and event organizers and potential attendees, to stay the f##k home. The Mayor's April 24 Tweet told an unidentified online audience, apparently consisting of social media critics and/or some supporters of Randy Hillier....

When the Mayor says, "It was important to send a strong message, and strong language is an effective means to do that," she is referring to the emotive content and form of her expression that is as much

protected as the rest of the communication..... it is unnecessary for me to determine whether Mr. Hillier and the Hon. Mr. Bernier express themselves in like manner. It is also unnecessary for me to determine whether they mocked and belittled the efforts of front-line health care workers. These factors do not affect the finding that Mayor Therrien complied with the Code. .... is difference must be taken into account in interpreting “abuse, bullying or intimidation.” Only people who choose to access the Mayor’s posts will see them. In my view, their voluntary engagement with her online content is inconsistent with a finding that they are being abused, bullied or intimidated.

**Comment:** While I have included this decision for completeness, I must advise that based on the provisions of the Chatham-Kent Code of Conduct, I would not reach the same conclusions. My view is that this conduct breaches section 5 (General Principles) and section 15 (Discreditable Conduct). The use of course language is not the concern as much as the disrespect this language shows to the audience. The average person reading this would likely find it to be somewhat intimidating.

### **Summary:**

- Members of Council will always be seen as public officials and cannot separate their public persona from their private posts. Members must always be mindful of the core values in the Code of Conduct when posting on social media in any capacity.
- Matters discussed in closed session can never be discussed on social media.
- Posts that contain misinformation breach the Code of Conduct.
- Posts that are disrespectful (rude, mocking positions taken, unprofessional) of a member of Council or a member of the public or staff, breach the Code of Conduct.
- Liking a comment on social media that is disrespectful or contains misinformation may be a breach of the Code of Conduct.
- Deleting or blocking on social media do not constitute a breach of the Code of Conduct when considered alone, but when blocking a respondent is combined with content that is misleading or disrespectful, this activity could breach the Code of Conduct.
- Unpopular opinions on subject matters before Council are fair comment, subject to being made in a way that is respectful of Council and not misleading. The Code of Conduct is a tool to regulate opinions or disagreements.
- Opinions expressed on social media concerning the community that are outside of Council’s jurisdiction could be subject to the Code of Conduct if not expressed in a way that makes it clear these are personal (disclaimer) or if voiced through a social media account used for municipal business.
- Use of offensive language when interacting with the public or each other is a breach of the Code of Conduct.
- Social media should never be used to intimidate, coerce or harass the public (including identifiable individuals or groups) staff or other members of Council.
- Members using social media accounts need to monitor their accounts and provide clear messages in response to misinformation or abusive content posted by others on their site. It is not enough to say it was not your comment but a response to something you posted.

- Political activities by members of council must take into consideration the Code of Conduct, and clear disclaimers that the views are not reflective of the views of Council is a good way to separate out personal beliefs from those of Council.
- Interaction with lobbyists on social media may breach the Code of Conduct.
- The test to assess whether the Code of Conduct was breached is based on a “balance of probabilities” meaning that a determination need find that it is more than 50% likely the statement was made is required.
- Members of Council are also vulnerable to abuse online.
- Members of Council who are active on social media must be aware of the risks that others could comment on their site in a way that could breach the Code of Conduct, involving commercial or public interest campaigns.
- 

Respectfully,

Mary Ellen Bench

Integrity Commissioner

Municipality of Chatham-Kent

# **Attachment 3**



Search

Posts

Reels

Rhonda Jubenville and 25 others

14 shares



Like



Comment



Share



Rhonda Jubenville



2d · 🌐

I wish CK Council felt the same. I know from the support, prayers, emails, messages and phone calls, Chatham-Kent wanted to only fly governmental flags. Good for Norwich! Makes sense to me. 🙏



cbc.ca

Ontario township votes to exclude Pride flags on municipal property | CBC News

Rhonda Jubenville and 58 others

30 comments · 6 shares



Like



Comment



Share



Rhonda Jubenville



3d · 🌐

🌟 Again, I want to thank everyone for your support. I was

# **Attachment 4**

**Rhonda Jubenville**

1h · 🌐



☀️ Just an FYI to all families in the LKDSB, in the elementary schools. Tomorrow is a PA day for teachers. A workshop will be facilitated to prepare for Drag Queen Story Time coming to the elementary schools.



Nicole S Gall and 55 others

86 comments



Like



Comment



Send

**Joey Cyples**[Rhonda Jubenville](#), can you DM me the details?

Like Reply

**Liz Vallee**

NO! The answer is no! I just had a conversation today with our VP regarding yesterday's assembly. He knows how I feel. He will be a fool if he thinks this will happen

Like Reply

9

**Cary Southpaw Templeman**

Most people would agree that drag queen shows are not age-appropriate for children and can confuse them about gender roles and expectations. They may also argue that schools should focus on academic and educational activities instead of hosting entertainment events..

Like Reply

9

**Michelle Petrusenko**

Are u kidding? What the hell????

Like Reply

**Don Fuoco**

and maybe Dr Johnston, Pediatrician now knows why more than 50% of his patients are now suffering from some sort of gender dysphoria. (According to his deputation to council)



# **Attachment 5**





Search

Posts

Reels



Like



Comment



Share

**Rhonda Jubenville**

3d · 🧑

🌟 Again, I want to thank everyone for your support. I was humbled by the support in Council Chambers last night. 🙏 So much, we had to open an overflow room.

Also, thank you Councillor [Michael Bondy](#) for trying to help me with my Motion and thank you to Councillors [Amy Finn](#) , [Ryan Doyle](#) and [Lauren Anderson](#) for your support.

Even though my Motion failed, I wholeheartedly feel we won! As always, I will respect democracy.

Tune into CBC radio ( yes I know, don't say it) today at 4:05 on the dial at 93.5 London, 88.1 Chatham or 97.5 Windsor for an interview on the Afternoon Drive.



i

chathamdailynews.ca

**Flag ban motion voted down; Chatham-Kent councillor receives hateful messages**

Rhonda Jubenville and 84 others

21 comments · 1 share

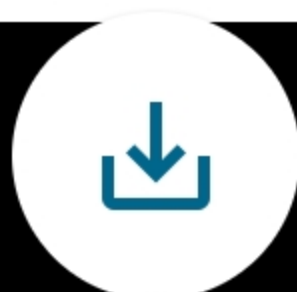


# **Attachment 6**

**Rhonda****Jubenville**1h · 

Can a taxpayer in CK please ask them to stop targeting me and my Motion that already failed. It's over, please move on.

This is their second "healing" event about my failed Motion and



# **Attachment 7**



Rhonda Jubenville



1d · 👥

▶ Just an FYI to all residents who live in Blenheim and surrounding area. At this moment there is a second flag flying under our Canadian Flag 🇨🇦 on the same flagpole. This is not accepted practice. If you feel empassioned about this please respectfully let Blenheim High School know your feelings. It doesn't matter which flag it is, it's wrong. All respect is being cast aside to feed a narrative.

Fyi, from the Canadian Government site below....



### On a flagpole

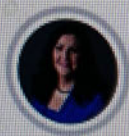
The National Flag will always be flown on its own flagpole, with the sleeve nearest to the pole. The canton should be placed in the position nearest the top of the flagpole or mast. It is improper to fly the National Flag with another flag, of any type, on the same flagpole.



# **Attachment 8**



## Rhonda's post



**Rhonda Jubenville**

1d ·

FYI..... For the trauma I caused them.

The irony is the stress I was caused by vile words and threats from members and supporters of this group over a Motion that had nothing to do with them specifically. The fact that some Councillors supported this event makes it even worse. How sad!



Annette Roy and 48 others

39 comments



Like



Comment